

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

JEFFREY W. PETTIT,

Plaintiff,

v.

Case No. 14-CV-1134

**AERO MEDICAL PRODUCTS CO. INC.,
et al.**

Defendants.

ORDER

Currently before the court is plaintiff Jeffrey W. Pettit's second motion to compel. (ECF No. 41.) Following the defendants' response and Pettit's reply, the court held a telephonic hearing on October 28, 2015, to discuss the motion with the parties. Based upon the filings of the parties and the statements at the hearing, the court grants the motion in part and denies the motion in part.

To the extent that Pettit demands "a forensic examination of Mr. Egan's two desktop computers, Mr. Egan's laptop computer, Ms. Wick's former desk-top computer and Mr. Pettit's former desk top computer, all with a forensic specialist of Mr. Pettit's

choosing," (ECF No. 41 at 16, ¶ A), the motion is granted. However, the plaintiff and the defendants shall each bear half the cost of the forensic examination.

Pettit's requests for "[a]n order precluding Aero Medical from introducing the revised commission policy in this matter [and] [a]n order granting Mr. Pettit an adverse inference instruction in connection with the revised commission policy" (ECF No. 41 at 16, ¶¶ B and C) are denied without prejudice.

Pettit's request for "[a]n order pursuant to Rule 37(b), Fed. R. Civ. P., requiring Aero Medical to produce all of the requested documents in their specified format (native with metadata intact), all without further delay" (ECF No. 41 at 16, ¶ E) is denied without prejudice. If the forensic examination reveals that the defendants have not provided requested documents, Pettit may, after complying with the meet and confer requirements of Federal Rule of Civil Procedure 37(a)(1) and Civil Local Rule 37, promptly seek relief from the court.

Finally, Pettit's request for attorney's fees and costs associated with bringing the present motion to compel and for certain depositions (ECF No. 41 at 16, ¶ D) is denied. Each party shall bear its own costs and fees.

SO ORDERED.

Dated at Milwaukee, Wisconsin this 28th day of October, 2015.


WILLIAM E. DUFFIN
U.S. Magistrate Judge

